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Essex Bar Association. William Crowninshield
Endicott. 1902.



PROCEEDINGS
OF A MEETING OF
THE ESSEX BAR ASSOCIATION
TO TAKE SUITABLE ACTION UPON THE DEATH OF

WILLIAM CROWNINSHIELD ENDICOTT,

LATE AN ASSOCIATE JUSTICE OF THE

Supreme Judicial Court of Massachusetts,

APRIL 16, 1901.

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Arthur E. Gray

WILLIAM CROWNINSHIELD ENDICOTT.

A MEETING of the members of the Essex Bar Association was held at the Supreme Judicial Court room, in Salem, on Tuesday, April 16, 1901, at two o'clock, to hear the report of a Committee of the Association previously appointed to prepare a Memorial expressive of the feelings of the Bar upon the death of William Crowninshield Endicott.

ALDEN P. WHITE, *Secretary.*

CHARLES G. SAUNDERS, Esquire, presented the following Memorial prepared by his father, Daniel Saunders, Esquire, who was prevented from being present.

May it please your Honor,— It has been the custom of the Essex Bar for many years to commemorate those of their departed brothers who had achieved distinction in its history either in learning, practice, or professional integrity by a brief memorial of their lives placed on file with its records. In these memorials, no attempt is made to magnify the virtues or ability of the departed, but simply to place on record a just review of the life and character of the brother who has left us. Knowing how fleeting is the recollection of our own best and highest endeavors and of the most successful efforts in our profession, we make these records not only to perpetuate the memory of the ability and integrity of the authors of such endeavors, but also to encourage by the best examples the attainment in others of that high standard of learning and character which our profession demands of all its members.

If this custom of our Bar had not existed, the life, attainments, and character of the subject of this Memorial would have demanded recognition at our hands; and the Bar would have failed in its duty if it had allowed the knowledge of his great ability, sterling worth, and genial courtesy in all his relations as a citizen, lawyer, and judge, to be retained only in the personal recollection of his surviving friends.

The Suffolk Bar has already expressed its appreciation of the worth and character of the man, and has placed upon record its judgment thereof. In that judgment, we heartily concur and desire to place a similar testimonial upon our records, the records of the Court where he took the oath to perform the duties of an attorney at law,—an oath well and faithfully kept,—and of the Court in which he won not only great reputation as a lawyer, but also the love and affection of his brothers and the confidence of the Bench.

MEMORIAL.

WILLIAM CROWNINSHIELD ENDICOTT, a most distinguished son of a distinguished ancestry both paternal and maternal, was born in Salem, in this County, November 19, 1826; was educated and prepared for college in the school of his native city, and graduated from Harvard in the class of 1847; was a student of law in the office of that eminent lawyer, Nathaniel J. Lord, and at the Harvard Law School, and was admitted to the Essex Bar in 1850. In 1858 he was elected City Solicitor of Salem, and held that office until 1863. He practised law at Salem from the time of his admission to the Bar until 1873, when he was appointed to the Bench of the Supreme Judicial Court. The office of Judge of this Court he held until 1882, when failing health compelled him to relinquish the duties and laborious work of this high tribunal, which he had so ably and graciously performed.

After some considerable time spent abroad in the regaining

of his health, he resumed again his professional life at the Bar. In 1885, he became a member of President Cleveland's Cabinet, serving four years as Secretary of War. At the end of that time he returned to the practice of law, opening an office in Boston, and there acquired a lucrative business in which he continued until again illness compelled his retirement. This covers his professional life.

Jealous a mistress as the law is, she did not compel his undivided attention to her service, but permitted his fellow-citizens to enjoy the benefit of his culture and ripe attainments in other matters. He served his city as a member of its administration, and as President of its Common Council. He was President of the Peabody Academy of Science from 1868 to 1897, President of the Essex Bar Association from 1869 to 1873, President of the Salem Bank from 1857 to 1873. He was a resident member of the Massachusetts Historical Society from 1864, of the Harvard Board of Overseers from 1875 to 1882, and of the Harvard Corporation from 1884 to 1895. In 1850 he was Captain of Company A, Sixth Regiment Light Infantry; in 1891, he was appointed one of the members of the Metropolitan Sewerage Commission.

In 1878, he was the orator on the occasion of the two hundred and fiftieth anniversary of the landing of his renowned ancestor, John Endecott. He delivered numerous addresses upon public men, public policy, and historical events. Among these was a critical and able address on the life of John Hampden in his relation to the Puritan movement here and in England; a patriotic and well-timed address to the young men of his native city upon their duties as citizens; an address on the relation of Agriculture to the stability and permanence of the State; a lecture on Chivalry, a subject of which he was a living exponent, and in his daily work and life he was a type of the highest and best in American citizenship.

December 13, 1859, he married into a distinguished family

of this Commonwealth. His wife, Ellen Peabody, a lady of charming grace and accomplishment, is the daughter of George Peabody of Salem. Two children are the fruit of this union,—a son, who bears the honored name of his father, is left to maintain his father's reputation,—a daughter, Mary Crowninshield, the wife of the Rt. Hon. Joseph Chamberlain, one of England's most gifted men, is now a resident of England, and there well represents the gracious dignity of her immediate ancestry.

May 6, 1900, he died at his residence in Boston.

In school and college, Judge Endicott, while not a plodder, was industrious in the pursuit of knowledge, and there laid the foundation upon which was built the ripe scholarship that strengthened and embellished all his intellectual work.

He wisely chose the law for his profession, and as a lawyer he obtained the highest prize of his profession, a seat upon the Bench of the Supreme Judicial Court of the State,—an honor which should satisfy the ambition of the most gifted and successful lawyer. Shortly after leaving college, he entered, as before stated, the office of Nathaniel J. Lord, then the leader of the Essex Bar. Under no better training could he have been fitted for a successful career. Mr. Lord combined not only great learning and skill in the presentation of his causes, but also great care in their preparation,—a care which permitted at their trial in Court no surprises from his opponents. He was also in all his relations with the members of the Bar and Bench most courteous in manners and speech. These qualities, inherent as they were in the person of Mr. Endicott, were stimulated and developed by the precept and example of his teacher, and they were continual aids in his rising career. He also had the advantage of the able training of Judge Story and Professor Greenleaf at the Harvard Law School. About two years after his admission to the Bar, he entered into partnership with Jairus Ware Perry, a lawyer of great learning and indefatigable industry, the author of that great work

"Perry on Trusts," a work of recognized authority in all the courts of the United States, and, what is rare in practice, this work was quoted by courts of the highest jurisdiction in the lifetime of its author, side by side with the final decisions of the courts of last resort. The labors of two such men in one office gave to their efforts in Court a thoroughness and completeness which won the respect of the Bench, the favorable consideration of juries, and amply repaid the confidence of their clients. This copartnership continued until the elevation of Mr. Endicott from the Bar to the Bench.

His legal attainments, his irreproachable character, the confidence and esteem in which he was held by both Bar and Bench, induced Governor William B. Washburn to select him as a most suitable person for the high position of a Judge of the Supreme Judicial Court, a place which he held with honor to himself and benefit to the State for nearly ten years.

We of the Bar know how much, in the trial of causes, our labors are lightened, our nervous strain quieted, by a calm and patient judge carefully weighing our arguments and courteously sustaining or overruling our claims.

With great patience and courtesy, Judge Endicott also possessed a clear insight into the merits of cases, a ready decision and a lucid expression of his judgment upon all questions submitted to him. These qualities made him most welcome as a Nisi Prius Judge in all parts of the State. His services at the Bar made him familiar with all branches of the law, and enabled him to rule quickly and with rare exceptions accurately. His reported opinions are learned and unambiguous statements of law, and bear the impress of careful thought and study clothed in the choicest diction.

In politics, Judge Endicott was a Conservative. Formerly a Whig, while that party held its place as one of the great contending parties of the country, when it gave place to, and was largely absorbed in, the Republican Party, he threw in his lot with the Democrats, whom before he had opposed.

He regarded it his duty as a good citizen to take an interest in the affairs of the people, and to identify himself with those whom he believed most capable of promoting the general welfare. He looked upon the Republicans as too radical in their attempts to change existing conditions, while he regarded the Democrats as more conservative and in closer touch with the fundamental principles of the Constitution. For that reason he identified himself with the latter. In those days, the Democracy was ready to recognize talent and ability in its adherents, and he was often chosen as its standard-bearer in political contests. In 1870, he was its candidate for Congress, and in 1866-1867 and 1868, he was candidate for Attorney-General; in 1884, for Governor of the State. His selection for these offices was not of his seeking, but were accepted by him as a matter of duty, but the great majority in the ranks of his opponents prevented his election to any of them. Under our form of government, the interests of the people are best conserved by two strong opposing parties of opposing principles and agencies in carrying out the aim of both for the welfare of the country, and candidates for office are usually sustained by the party they represent. Therefore, when one holds a large majority of votes, a man of the other, however fit, can rarely secure an election by popular vote. That Judge Endicott would, if elected, have filled any place for which he had been nominated with honor to himself and profit to the State, no one questions. Fortunately for us, the Judiciary in this Commonwealth is not chosen by popular vote, otherwise we should probably have lost the benefit of the commanding abilities shown by him upon the Bench.

In 1884, the Democrats came into power after many years of defeat, and Grover Cleveland was elected President. For a place in his Cabinet, there were many able men in this section of the country from whom to make a selection. From them all, he chose Mr. Endicott as a suitable representative of New England in the Council of the Nation, and he was

given the position of Secretary of War. As we were then at peace with all the world, the duties of the office did not call into requisition the full measure of his ability. He, however, performed them with such careful attention that left nothing more to be required of him. He was a trusted adviser of the President, and after four years' service he left the office with the respect and esteem of the army officers, and of all with whom he had social, business, or official relations. It hardly needs to be said that the scandals which lately have been so rife in the place he occupied would never have arisen during his administration.

Notwithstanding his busy life as lawyer and judge, his services in these callings were not of such exclusive devotedness as to prevent the exhibition of the agreeable varieties of light and shade in his character in other paths. He found time to serve his fellow-citizens in many ways, as before stated. To all of these affairs he gave time and attention, and neglected none of them. His cultivated ability was conspicuous in the discharge of the duties they required of him, and was cheerfully given for the best interest of those he so faithfully served.

On his father's side, he was a lineal descendant of John Endecott, the first Governor of the Plantation in New England, whom he resembled in personal features more than he did in certain traits of character. The Governor was a man of strong personality, choleric in disposition, impatient of opposition, and, to a certain extent, domineering in his relations with his fellow-men, although governed in his action by a conscientious sense of duty and a firm adherence to what he believed to be right. Such qualities commanded the attention and homage more than the love and affection of those he governed. Judge Endicott, in character, more resembled Governor Winthrop, who was calm in deportment, dignified in manner, of gentle temper, courteous and liberal in all his social relations; but like Governor Endecott, firm and stead-

fast in his conviction of right, and was both loved and revered.

Judge Endicott's mother was a daughter of Jacob Crowninshield, a man prominent in the affairs of State and nation; a member of Congress from 1802 to 1808, declining the position of Secretary of Navy in order to retain his seat in Congress, where he thought he could be of more service to the country than as a member of President Jefferson's Cabinet.

In looking over the busy and useful life of the man whom we commemorate,—a worthy and patriotic citizen, a wise counsellor, an able lawyer, a learned and courteous judge, a man of the strictest integrity in every relation of life,—we recognize a gentleman by nature, of Nature's loftiest type, and one worthy of our highest emulation.

In this brief statement of the public life of Judge Endicott I have only spoken of those matters which pertain to the public. From my long and intimate acquaintance with him I could find no words too eulogistic of his private life, but the remembrance of this life must be left to the grateful recollections of those near and dear to him, and to those of us who enjoyed his personal friendship and generous hospitality,—courteous to all, genial in companionship, warm in friendship,—our loving recollections will be an enduring monument of his work so long as memory lasts.

On behalf of the Essex Bar Association, I respectfully request that this Memorial with a minute of these proceedings be entered on record in this Court.

Hon. WILLIAM D. NORTHEND then spoke as follows:—

May it please your Honor,—The ranks of the Members of the Essex Bar who were in full practice, or on the Bench, forty years ago have become very thin. It is our melancholy duty to-day to pay a loving tribute to the memory of one of the most distinguished members of the Bar of that period, Mr.

Endicott. I can add but little to the just and truthful Memorial which has been prepared by our brother, Mr. Saunders.

At the Bar, Mr. Endicott was very diligent and prepared his cases with very great care; and on the Bench, as at the Bar, it was his ambition to do what he was called upon to do, well. His opinions were very carefully prepared and very clearly stated.

An eminent English lawyer is reported to have recently said that the most important requisite for a judgeship was that the candidate for the place should be a gentleman. We who have practised in the different courts can fully appreciate the truth of the remark.

Mr. Endicott was always, and under all circumstances, in language and in conduct, a thorough gentleman.

Soon the ranks to which I have referred will be closed, and the lawyers of that period as a class may be impartially compared with those of the different periods in the past. We have reason for the belief that the Essex Bar has not deteriorated, and that the active Bar of the present day will fully sustain the proud reputation of the Essex Bar in the past. I would respectfully second the request that the Memorial and minutes of these proceedings be entered on record in this Court.

In response to the foregoing Memorial and address, Mr. Justice LATHROP spoke as follows from the Bench:—

Brethren of the Essex Bar,— Although the full Bench of this Court has spoken through the mouth of its Chief Justice in response to a memorial presented in Boston, and although when such is the case it is not usual for the Court to receive a second memorial, I still sympathize with your desire to have your tribute to the memory of Mr. Justice Endicott spread upon the records of the Court in the county where he was born, where he passed his life, and where he practised his

profession with such success that he was appointed to the highest Court of the Commonwealth.

Your Memorial is so full and adequate that it leaves but little for me to say.

Judge Endicott was appointed a justice of this Court on March 5, 1878, not to fill a vacancy, but under a statute which made the number of the associate justices six instead of five. Those with him upon the bench were Reuben A. Chapman, Chief Justice, and Horace Gray, John Wells, James D. Colt, Seth Ames, and Marcus Morton. Of these but one survives, Mr. Justice Gray of the Supreme Court of the United States.

When Judge Endicott resigned on October 31, 1882, after a service of nearly ten years, he ranked in seniority next to the Chief Justice Marcus Morton. Of those with him upon the bench at the time of his resignation but one survives, Mr. Justice Charles Allen, who, after a faithful service of sixteen years, left the bench in 1898. To most of the members of the present bench Judge Endicott, as a judge, is but little more than a name.

It fell to my lot, however, to be appointed reporter of decisions of this Court in the early part of March, 1874, and so for eight years and a half I was brought into close official and personal relations with him. During that time I attended all of the sittings of the full Court, and it was my duty as well as my pleasure to read all of his decisions, in manuscript, in proof, and as they appeared in the published volumes of the reports. I feel, therefore, that I can speak with some knowledge of him as a judge.

He appeared to me to be one of the most courteous and charming of men. He had that great quality of patience so befitting a judge. He was always ready to listen to what counsel had to say, and was not quick to decide a case before knowing all there was to know about it. His opinions were expressed in clear and idiomatic English; and although not exhibiting so much research and learning as some delivered in

his time, they showed that the law had been carefully examined and had been duly applied to the facts of the case.

It would be superfluous for me to speak of him as a lawyer, to this Bar which knew him so well; and I can only say to you that in all respects he was a model, and that while always faithful to his clients and their interests, he never forgot that part of his attorney's oath which required him to act "with all good fidelity" to the Court.

In accordance with your request, it is ordered that your Memorial, together with a memorandum of these proceedings, be entered upon the records of the Court.









